IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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WRIT PETITION NO : 15148 of 2004

Between:

Sri Durgalamma Polamamba Ammavari Temples,

rep. by Manager, B.V.S.Maheshwara Rao,
s/o Satyanarayana, Sangivalasa Village, Bheemunipatnam Mandal,
Visakhapatnam.

..... PETITIONER

AND

1 Competent Authority and Special Deputy Collector (LA) NH-5, Visakhapatnam.
2 The Project Director, PIU, National Highway Authority of India, Visakhapatnam.
3 The Asst.Commissioner, Endowment Department, Visakhapatnam.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus the declaring the impugned action of the 1st respondent in threatening to remove the idols from the petitioner's temple are issuing the proceedings in Rc.34/2004/R1-IV/Dtd.13-8-2004 and without allotting any alternative site for the construction of the temple as arbitrary, illegal and contrary to law further may be pleased to direct the respondents 1 and 2 not to shift the idols from the petitioner's temple till the construction of the new temple is completed.

Counsel for the Petitioner:SMT.N.INDRANI
Counsel for the Respondent Nos.1 & 2: GP FOR LAND ACQUISITION
Counsel for the Respondent No.3: GP FOR ENDOWMENTS

The Court at the stage of admission made the following ORDER:

The land, which belongs to the petitioner-temple, was notified for acquisition for formation of four lane road into existing NH-5 road. The first respondent-Special Deputy Collector had sought for the valuation of the religious structures and estimates pertaining to various religious institutions under acquisition from the third respondent-Assistant Commissioner, Endowment Department, Visakhapatnam. On submission of valuation report, the first respondent has passed an award and the amount of compensation awarded was also paid to one Mr. Akramani Appala Naidu, S/o Peda Totayya. Thereafter, the first respondent issued proceedings dated 13-08-2004 to the third respondent calling upon him to shift the idols of petitioner-temple within a week and informing that failing to do so, he will remove the idols with the help of second respondent and contractors of the NHAI and that if any damage caused to the idols in shifting, they will not be responsible. Questioning the same, the present writ petition is filed.

Learned counsel for the petitioner-temple across the bar contends that the compensation, which was paid to A.Appala Naidu has no right to receive it and that as per the minutes of the meeting held on 28-01-2002, the Joint Collector, Visakhapatnam instructed the Revenue Divisional Officers, Narsipatnam and Visakhapatnam to inspect the religious structures situated on the lands proposed for acquisition and to send proposals duly identifying the alternative land for shifting of temples, if any and that till such an alternative site is allotted, idols cannot be shifted. She further contends that though it was held as above, the first respondent directing the third respondent to shift the idols from the petitioner-temple otherwise, they will remove the same.

Once the award is passed and compensation amount is paid to the structures, it is for the Endowment Department to make alternative arrangements for shifting of

idols to the safer places. With regard to the contention of the learned counsel for the petitioner-temple that the person viz., Mr. A.Appala Naidu, who received the compensation, has no right to receive such compensation, it is always open to the Endowment Department to proceed against the first respondent for recovery of compensation amount, which was said to have been paid to
Mr. A.Appala Naidu, and to be paid to the petitioner-temple authorities or Endowment Department as the case may be. Such is not the dispute here. But the learned counsel for the petitioner has not made any endeavour to challenge the payment of the award to the said person except stating that he has no right to receive the said compensation, which cannot be the ground for not shifting of the idols. In view of the same, learned counsel for the petitioner –temple requests time for shifting of the idols.

In view of the facts and circumstances of the case, the petitioner-temple is directed to shift the idols to the safer places within six weeks from today. Having regard to the same, the first respondent shall defer the steps for removing the idols for a period of six weeks from today enabling the petitioner-temple to shift the idols to the alternative site either allotted by the Joint Collector or identified by themselves.

The writ petition is accordingly disposed of. No costs.

25th AUGUST, 2004.

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To

1 The Competent Authority and Special Deputy Collector (LA) NH-5, Visakhapatnam.
2 The Project Director, PIU, National Highway Authority of India, Visakhapatnam.
3 The Assistant Commissioner, Endowment Department, Visakhapatnam.

4 Two CCs to the Government Pleader for Land Acquisition, A.P.High Court Buildings, Hyderabad.(OUT)

5 Two CCs to the Government Pleader for Endowments, A.P.High Court Buildings, Hyderabad.(OUT)

6 Two CD copies.